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FISCAL IMPACT STATEMENT

LS 6529

BILL NUMBER: SB 607

NOTE PREPARED: Jan 27, 2013

BILL AMENDED:

SUBJECT: Taxation of Racetrack Casinos.

FIRST AUTHOR: Sen. Lanane

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill reduces the nominal percentage of racetrack casino slot machine revenues that must be used to support the horse racing industry from 15% to 12% and specifies that the amount is a racing support fee. It recodifies statutes governing the use of the fee.

The bill establishes the Indiana Horse Racing Support Fund (IHRSF) for the deposit of the racing support fee. It requires that the fees must be remitted on a daily basis. It subtracts the racing support fees and county slot machine wagering fees from a licensee's adjusted gross receipts (AGR) for purposes of the slot machine wagering tax.

The bill recodifies amounts formerly subtracted from the 15% of revenue otherwise payable to support horse racing as an addition to a licensee's annual license renewal fee, a tobacco cessation support fee, and an increased gaming integrity fee. It specifies that the annual license renewal fee, tobacco cessation support fee, gaming integrity fee, and problem gambling fee may not be subtracted from a licensee's adjusted gross receipts.

The bill repeals an obsolete definition, obsolete provisions concerning the riverboat subsidy for horse racing that predated the slot machine wagering at the racetracks, the statute requiring a permit holder to use part of the permit holder's slot machine revenue to support the horse racing industry, and the supplemental fee. It appropriates money in the IHRSF to the Indiana Horse Racing Commission.

Effective Date: January 1, 2013 (retroactive); July 1, 2013.

Summary of NET State Impact: The estimated net impact to state funds from the provisions in the bill is presented in the table below.

STATE FUND TYPE	FY 2013	FY 2014	FY 2015
State General Fund	(\$0.4 M)	\$2.4 M	\$3.6 M
Thoroughbred Development Fund		(\$0.64 M)	(\$0.83 M)
Standardbred Development Fund		(\$0.80 M)	(\$1.04 M)
Quarter Horse Development Fund		(\$0.08 M)	(\$0.11 M)
NET IMPACT	(\$0.4 M)	\$0.88 M	\$1.62 M

Explanation of State Expenditures: *Department of State Revenue (DOR):* The bill requires DOR to collect from the Hoosier Park and Indiana Live racinos: (1) the county slot machine wagering fee; and (2) the 12% racing support fee established by the bill. The bill would require the racinos to remit these fees on a daily basis to DOR beginning in FY 2014. Currently, the county slot machine wagering fee is collected by the Indiana Gaming Commission (IGC) twice per month. The change would have an indeterminable but probably minimal administrative impact on the DOR, since the DOR already collects the state slot machine wagering tax from the racinos on a daily basis.

Indiana Horse Racing Commission: The bill appropriates the money in the Indiana Horse Racing Support Fee to the IHRC and requires that the IHRC distribute the money: (1) to the horsemen's association; (2) as purse supplements; (3) to the State Fair Commission; and (4) to the breed development funds. The bill also requires the IHRC to establish a review committee to make recommendations regarding the use of \$125,000 annually distributed to State Fair Commission for grants to county fairs to support standardbred racing. The IHRC's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: The bill makes several changes to the racino tax and fee structure.

- (1) The bill repeals the statute setting aside 15% of the adjusted gross receipts (AGR) from slot machine gaming at the racinos for horse racing and other purposes.
- (2) The bill replaces the 15% set aside with the following two fees imposed on the racinos: (a) the racing support fee equal to 12% of slot machine AGR at the racinos; and (b) the tobacco cessation support fee equal to \$1.5 M annually from each racino.
- (3) The bill increases the annual gaming integrity fee from \$250,000 per racino to \$500,000 per racino to replace the \$250,000 per year that is currently distributed to the Gaming Integrity Fund as part of the 15% set aside of racino AGR that is being repealed by the bill.
- (4) The bill increases the annual racino licence renewal fee by the amount that the General Fund will receive in FY 2013 under the current 15% set aside of racino AGR being repealed by the bill.
- (5) The bill defines "taxable receipts" as the tax base for slot machine wagering tax. It specifies that taxable receipts is equal to AGR minus the amounts paid by the racino in racing support fees (12% of AGR) and county slot machine wagering fees (3% of AGR up to \$8 M annually). The fiscal impacts from these changes reported in the table below.

Provisions	Fund	FY 2013	FY 2014	FY 2015
Repeal of 15% AGR Set Aside and Replacement with Racing Support Fee	State General Fund		(\$6.0 M)	(\$4.6 M)
	Thoroughbred Breed Fund		(\$0.64 M)	(\$0.83 M)
	Standardbred Breed Fund		(\$0.80 M)	(\$1.04 M)
	Quarter Horse Breed Fund		(\$0.08 M)	(\$0.11 M)
Deduction of Racing Support Fee and Tobacco Cessation Support Fee from Racino AGR for Computation of Slot Machine Wagering Tax	State General Fund		\$1.2 M	\$1.0 M
Racino License Renewal Fee	State General Fund	(\$0.4 M)	\$7.2 M	\$7.2 M
TOTAL		(0.4 M)	0.88 M	\$1.62 M

Repeal of 15% of AGR Set Aside: The bill repeals current statute that sets aside 15% of the slot machine AGR generated at the racinos for horse racing and other purposes, including breed development funds and the state General Fund.

Racing Support Fee: The bill establishes this fee equal to 12% of the slot machine AGR generated at the racinos. The distribution formula for this fee is the same as the current distribution formula for the 15% set aside, except it does not include distributions to the Tobacco Master Settlement Fund, the Gaming Integrity Fund, or the state General Fund.

Tobacco Cessation Support Fee: The bill establishes this fee equal to \$1.5 M annually from each racino. This fee is to be distributed to the Tobacco Master Settlement Fund. This fee replaces the payment by each racino in the same amount under the 15% set aside that is distributed to the Tobacco Master Settlement Fund. The bill requires each licensee to pay the fee before September 1 each year.

Gaming Integrity Fund: Current statute requires \$250,000 of each racino's 15% set aside amount to be distributed to the Gaming Integrity Fund. Also, current statute requires each racino to annually pay a gaming integrity fee equal to \$250,000. The gaming integrity fee is also distributed to the Gaming Integrity Fund under current statute. The bill increases the gaming integrity fee by \$250,000 to replace the payment that each racino currently makes to the Gaming Integrity Fund from the 15% set aside.

Racino Slot Machine Wagering Tax: The slot machine wagering tax is currently based on the slot machine AGR generated at the racinos which is multiplied by a set of graduated tax rates. The bill changes the tax base of the slot machine wagering tax from AGR to "taxable receipts" beginning July 1, 2013. Taxable receipts is defined by the bill as AGR minus the amounts paid by a racino under the racing support fee (12% of AGR) and the county slot machine wagering fee (3% of AGR). With these deductions the tax base for the slot machine wagering tax would equal 85% of AGR. However, this change in statute would actually result in a revenue gain to the state General Fund. Current statute provides that the slot machine wagering tax base is 99%

of AGR. In addition, the racinos are currently computing the tax after deducting the 15% set aside amount from the statutory tax base (99% of AGR) pursuant to the U.S. Bankruptcy Court ruling on the imposition of the slot machine wagering tax under *In re Indianapolis Downs, LLC, et al., Case No. 11-11046 (BLS) (Bankr. D.DE 2011)*. Therefore, the effective tax base for the racinos currently is 84.15% of AGR ($=.99*(1-.15)$). The Revenue Technical Committee forecast (December 17, 2012) for the slot machine wagering tax has been reduced to account for the reduced tax base on which the racinos are currently paying the slot machine wagering tax.

Racino License Renewal Fees: Current statute requires that five years after the effective date of an initial racino license an annual renewal fee must be paid to renew the license. Under current statute, Hoosier Park and Indiana Live will be required to renew their license in FY 2013 and every year thereafter. The renewal fee is to distributed to the state General Fund. The license fee under current statute is \$100 multiplied by the number of slot machines operated by the racino. The bill amends current statute and provides that the initial license for each racino expires on June 30, 2013. Assuming payment of the first annual renewal fee in FY 2013, this change would reduce revenue to the state General Fund by \$400,000 in FY 2013.

For FY 2014 and thereafter, the bill provides that the annual renewal fee is: (1) \$100 multiplied by the number of slot machines operated by the racino plus (2) an amount equal to the payment made by the racino to the state General Fund in FY 2013 under the 15% AGR set aside. This is the amount deposited in the state General Fund under an inflationary limitation on the payments from the 15% set aside to horse racing purposes. It is estimated that General Fund will receive an additional \$7.2 M annually from the license renewal fee proposed in the bill.

Background:

Under current statute, the Hoosier Park and Indiana Grand racinos pay the taxes and assessments described in (1) to (3), below.

(1) The state slot machine wagering tax on AGR generated on slot machines during the fiscal year. The Revenue Technical Committee forecast (December 17, 2012) estimates this tax could generate \$103.2 M in FY 2013, \$100.7 M in FY 2014 and \$97.4 M in FY 2015. Revenue from this tax is distributed to the state General Fund. The rate structure of the tax is summarized in the table below:

TAXABLE AGR INCREMENT EARNED, JULY 1st TO JUNE 30th	TAX RATE ON AGR INCREMENT
\$100 M and UNDER	25%
OVER \$100 M UP TO \$200 M	30%
OVER \$200 M	35%

(2) The county slot machine wagering tax equal to 3% of AGR generated during the fiscal year, up to a maximum of \$8.0 M in annual tax liability. It is estimated that this tax could generate a total of \$13.4 M in FY 2013, \$13.1 M in FY 2014 and, \$12.7 in FY 2015. Revenue from this tax is distributed to local units in Madison County and Shelby County.

(3) The racinos are required to pay 15% of AGR generated during the fiscal year for following purposes: (a) the state Tobacco Master Settlement Agreement Fund; (b) the state Gaming Integrity Fund; (c) equine promotion and welfare; (d) backside benevolence; (e) the state Breed Development Funds; (f) private horsemen's associations; and (g) horse racing purses. The state General Fund could also receive distributions under an inflationary limitation on the other payments. It is estimated that the 15% payment could total \$67.1 M in FY 2013, \$65.7 M in FY 2014 and, \$63.8 M in FY 2015.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Indiana Horse Racing Commission.

Local Agencies Affected:

Information Sources: Revenue Technical Committee Forecast (December 17, 2012); In re Indianapolis Downs, LLC., et al., Case No. 11-11046 (BLS) (Bankr. D.DE 2011).

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